

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAY 29 1998

In the Matter of)

)
Policies and Rules for Alternative)
Incentive Based Regulation of)
Comsat Corporation)

IB Docket No. 98-60

)
Notice of Proposed Rulemaking)
)
)
)

AT&T COMMENTS

By an Order and Notice of Proposed Rulemaking released April 28, 1998¹ and published in the Federal Register, May 11, 1998, the FCC adopted broad, tentative conclusions with respect to alternative regulation of Comsat Corporation ("Comsat") on certain routes. Specifically, the Commission tentatively concluded: (a) traditional rate of return regulation should be replaced with an alternative incentive based regulation plan for Comsat with respect to its provision of switched voice, private line and occasional-use video service to the non-competitive

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¹ Order and Notice of Proposed Rulemaking, File No. 60-SAT-ISP-97, IB Docket No. 98-60, File No. 14-SAT-ISP-97, RM-7913, and CC Docket No. 80-634, released April 28, 1998 ("Comsat Order").

markets;² and (b) any alternative regulation plan adopted for Comsat in dominant markets should:

1) remain in effect for an indefinite period of time, rather than expiring after 3 years;

2) allow users of Comsat's service to non-competitive markets to benefit from a competitive transition rate, rather than the non-discounted tariffed rate that would result from Comsat's uniform pricing commitment; and

3) allow all users of Comsat's service to non-competitive markets to benefit from reduced rates due to increases in efficiency and productivity.

Although the Commission's tentative conclusions outline only broad findings, which require more specific definition, AT&T supports these tentative conclusions as discussed below.

I. THE COMMISSION CORRECTLY DENIED COMSAT'S PRICE CAP PROPOSAL

Comsat proposed in its forbearance request to take certain actions with respect to service to its dominant markets. Specifically, Comsat proposed to: (a) cap its rates in these dominant markets for three years at their current levels and to

² The 63 countries considered by the Commission to be non-competitive for switched voice and private line service are identified by the Commission as "thin route" markets, and the 142 countries considered by the Commission to be non-competitive for occasional-use video service are identified by the Commission as "occasional-use single carrier" markets, (collectively "non-competitive markets"), See Comsat Order at ¶2 and ¶29, Appendices A and B.

file tariffs on 14 days' notice (for rate increases or reductions in service terms) after the expiration of the three-year period, (b) continue uniform pricing on all geographic routes, and (c) establish a sunset date of January 1, 2000 for dominant carrier regulation for Comsat.³ The Commission correctly found that Comsat's price cap proposal would result in unfair pricing.

Because these markets are not yet subject to effective competition, forbearance from the Commission's dominant carrier tariff rules would not be in the public interest.⁴ The Commission correctly concluded that Comsat's rates have not been shown to be just and reasonable and customers do not have the real opportunity to switch to other providers if Comsat charges rates above competitive levels.⁵ Likewise, Comsat's price cap proposal is insufficient to ensure that rates for its services would remain just and reasonable and not be unjustly or unreasonably discriminatory in the future.⁶

³ See, *Id.* at ¶68.

⁴ See, *Id.* at ¶142.

⁵ See, *Id.* ¶144 - 145.

⁶ See, *Id.* at ¶146.

II. AN ALTERNATIVE FORM OF REGULATION MAY BE APPROPRIATE FOR COMSAT'S NON-COMPETITIVE MARKETS

The Commission recognized that continued rate-of-return regulation applicable to Comsat's services to non-competitive markets "may not create adequate efficiency incentives for Comsat and requires administratively burdensome cost allocation rules to enforce."⁷ In proposing an alternative regulatory scheme, the Commission correctly concluded that any such scheme should remain in effect for an indefinite period of time, allow users of Comsat's service to non-competitive markets to benefit from a competitive transition rate, and allow all users of Comsat's service to non-competitive markets to benefit from reduced rates resulting from increases in efficiency and productivity. To achieve these goals, however, the Commission must obtain further data to identify reasonably expected future productivity growth in Comsat's provision of these services and the number and composition of price cap baskets. In particular, as the Commission correctly concluded, the need for an appropriate X-Factor for adjusting any approved price caps is especially important to assure that consumers are adequately protected.⁸ The X-Factor should provide a reliable measure of the extent to which changes in Comsat's unit costs have been less than the change in the level of inflation, should pass

⁷ *Id.* at ¶4.

⁸ *See, Id.* at ¶149.

through ongoing unit cost reductions to consumers, and should be relatively simple and based on publicly available data.⁹

The specifics of any proposed alternative regulation plan should encourage Comsat to reduce costs and increase efficiency, and to pass on a portion of that efficiency to its customers in the form of lower rates. Moreover, there should be no guarantee of the recovery of all costs, which would eliminate the incentive to reduce costs and become more efficient.

In fashioning the appropriate alternative regulation plan for Comsat, the Commission should use as its model the mandatory price cap regulation of the large local exchange carriers ("LECs") rather than the optional incentive plan used for small and mid-sized LECs.¹⁰ The optional incentive plan was devised in response to the different circumstances and conditions of the small and mid-sized LECs. The price cap regulation of the large LECs provides greater incentives to increase efficiency than the optional incentive plan and should

⁹ See, *In the Matter of Price Cap Performance Review for Local Exchange Carriers; Access Charge Reform*, Fourth Report and Order in CC Docket No. 94-1 and Second Report and Order in CC Docket No. 96-262, 12 FCC Rcd 16642, 16647 (1997 ("LEC Order")).

¹⁰ *Id.* See also, *Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation*, 8 FCC Rcd

therefore be the preferred model here.

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May 29, 1998

CERTIFICATE OF SERVICE

I, Michelle Martin, do hereby certify that on this 29th day of May, 1998 a copy of the foregoing was mailed by U.S. first class mail, postage prepaid, upon the parties on the attached service list:


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